



Reports of Cases

JUDGMENT OF THE GENERAL COURT (Fourth Chamber, Extended Composition)

8 May 2024*

(Access to documents – Protection of personal data – Regulation (EC) No 1049/2001 – Documents relating to the allowances and expenses paid to a Member of Parliament and the salaries and allowances of his or her parliamentary assistants – Refusal to grant access – Exception relating to the protection of privacy and the integrity of the individual – Article 4(1)(b) and (6) of Regulation No 1049/2001 – Protection of the data subject's legitimate interests – Necessity of the transmission of personal data for a specific purpose in the public interest – Article 9(1) of Regulation (EU) 2018/1725)

In Case T-375/22,

Luisa Izuzquiza, residing in Berlin (Germany),

Arne Semsrott, residing in Berlin,

Stefan Wehrmeyer, residing in Berlin,

represented by J. Pobjoy, Barrister-at-Law,

applicants,

v

European Parliament, represented by N. Lorenz and J.-C. Puffer, acting as Agents,

defendant,

THE GENERAL COURT (Fourth Chamber, Extended Composition),

composed of M. van der Woude, President, R. da Silva Passos (Rapporteur), S. Gervasoni, N. Póltorak and T. Pynnä, Judges,

Registrar: A. Marghelis, Administrator,

having regard to the written part of the procedure,

further to the hearing on 5 October 2023,

gives the following

* Language of the case: English.

Judgment

1 By their action based on Article 263 TFEU, the applicants, Ms Luisa Izuzquiza, Mr Arne Semsrott and Mr Stefan Wehrmeyer, seek annulment of the decision of the European Parliament bearing reference A(2021)10718C of 8 April 2022 ('the contested decision') refusing them access to Parliament documents containing information relating to the allowances obtained by Mr Ioannis Lagos and his parliamentary assistants.

I. Background to the dispute

- 2 Mr Lagos took up the office of Member of the European Parliament on 2 July 2019, following his election in Greece.
- 3 On 7 October 2020, the Efeteio Athinon (Athens Court of Appeal, Greece) sentenced Mr Lagos to 13 years and 8 months' imprisonment and to the payment of a fine for membership and leadership of a criminal organisation as well as for two minor offences.
- 4 On 27 April 2021, at the request of the Greek authorities, the Parliament waived Mr Lagos' immunity. He was subsequently arrested by the Belgian authorities and surrendered to the Greek authorities. Mr Lagos is currently serving his prison sentence in Greece.
- 5 After his criminal conviction, the waiver of his immunity and his imprisonment, Mr Lagos did not resign from his mandate as a Member of the European Parliament. Such a conviction of Mr Lagos did not give rise to any communication from the Greek authorities to the Parliament concerning the withdrawal of his mandate.
- 6 On 7 December 2021, the applicants submitted to the Parliament, on the basis of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43), a request for access to documents concerning Mr Lagos ('the initial request').
- 7 In their initial request, the applicants sought access to all documents related to the allowances granted to Mr Lagos between 7 October 2020 and 7 December 2021, namely: (i) travel and accommodation expenses and related expenses; (ii) the daily allowance or 'subsistence allowance'; (iii) the general expenditure allowance, as well as reimbursements of professional language training costs and IT costs; and (iv) expenses related to the salaries of accredited and of local parliamentary assistants.
- 8 The documents to which the applicants sought access included but were not limited to: (i) all applications, receipts, expense forms, tickets, odometer readings, invoices or bills submitted by Mr Lagos in relation to the allowances; (ii) all documents related to or regarding the reimbursement of the allowances; and (iii) all correspondence with Mr Lagos' office, including internal correspondence, as well as correspondence with third parties regarding the allowances, and correspondence with the Parliament's administrative services.
- 9 On 17 January 2022, following exchanges of emails with the Parliament, the applicants agreed to limit the scope of the initial request to documents dating from the period between 7 October 2020 and 7 March 2021 ('the relevant period').

- 10 In its decision of 4 February 2022 ('the initial decision'), the Parliament refused to grant the applicants access to the documents covered by the initial request.
- 11 On 28 February 2022, the applicants made a confirmatory application to the Parliament pursuant to Article 7(2) of Regulation No 1049/2001, asking the Parliament to review its initial decision.
- 12 In the contested decision, the Parliament informed the applicants that, given the limitation of the scope of the initial decision to the relevant period, it had identified documents in the following categories: Mr Lagos' salary, his subsistence allowance, the reimbursement of his travel expenses, the salaries of his accredited and local parliamentary assistants and the reimbursement of the travel expenses of his accredited and local parliamentary assistants. Relying on Article 4(1)(b) and (6) of Regulation No 1049/2001 and Article 9(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ 2018 L 295, p. 39), the Parliament confirmed its initial decision to refuse to grant the applicants access to the documents requested.

II. Procedure and forms of order sought

- 13 On a proposal from the Judge-Rapporteur, as part of the measures of inquiry provided for in Article 91(c) of the Rules of Procedure of the General Court, the Court ordered the Parliament to produce a complete copy of the documents to which access had been refused. The Parliament having complied with that request, those documents were not communicated to the applicants pursuant to Article 104 of the Rules of Procedure.
- 14 At the hearing, the applicants stated that, contrary to what they had claimed in the application, they were withdrawing from their pleas and arguments their contention that one of the purposes pursued by their request for access to the documents at issue was to contribute to the public's understanding of the Parliament's rules concerning the process for waiving parliamentary immunity. That statement by the applicants was recorded in the minutes of the hearing.
- 15 The applicants claim, in essence, that the Court should:
- annul the contested decision;
 - order the Parliament to pay the costs.
- 16 The Parliament contends that the Court should:
- dismiss the action;
 - order the applicants to pay the costs.

III. Law

17 In support of their action, the applicants raise two pleas in law, alleging, first, infringement of Article 4(1)(b) of Regulation No 1049/2001 in conjunction with Article 9(1)(b) of Regulation 2018/1725 and, secondly, in the alternative, infringement of Article 4(6) of Regulation No 1049/2001.

A. The first plea, alleging infringement of Article 4(1)(b) of Regulation No 1049/2001 in conjunction with Article 9(1)(b) of Regulation 2018/1725

18 The applicants argue that Article 9(1) of Regulation 2018/1725 requires the Court to ‘[weigh] the various competing interests’ in determining whether it is ‘proportionate’ to transmit personal data, even if a legitimate interest is found to be prejudiced. According to the applicants, it is not sufficient that the institution considers that there is reason to assume that the transmission in question might prejudice the legitimate interests of the data subject. The introduction of a balancing exercise in Article 9(1) of Regulation 2018/1725, read in conjunction with Article 4(1)(b) of Regulation No 1049/2001, conferred on the Court a greater power of assessment than it had under Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

19 The applicants also argue that the Parliament does not appear to dispute that a balancing exercise is expressly required by Article 9(1) of Regulation 2018/1725. This first plea has two parts.

20 The first part alleges a misapplication of the requirement of necessity in respect of the transmission of the personal data contained in the documents whose disclosure was requested. In the second part, the applicants submit that the Parliament erred in finding, after weighing the various competing interests, within the meaning of Article 9(1)(b) of Regulation (EU) 2018/1725, that it was disproportionate, having regard to the legitimate interests of Mr Lagos and of his assistants, to transmit the data at issue.

21 In that regard, it is important to note that Article 15(3) TFEU provides that any citizen of the European Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to the documents of the institutions of the European Union, subject to the principles and conditions defined in accordance with the procedure laid down in Article 294 TFEU. As stated in recital 1 of Regulation No 1049/2001, that regulation reflects the intention expressed in the second paragraph of Article 1 TEU, which was inserted by the Treaty of Amsterdam, to mark a new stage in the process of creating an ever closer union among the peoples of Europe, in which decisions are taken as openly as possible and as closely as possible to the citizen. As is recalled by recital 2 of that regulation, the right of public access to documents of the institutions is connected with the democratic nature of those institutions (see judgment of 15 July 2015, *Dennekamp v Parliament*, T-115/13, EU:T:2015:497, paragraph 35 and the case-law cited).

22 Furthermore, it must be recalled that, under Article 4(1)(b) of Regulation No 1049/2001, the institutions of the European Union must refuse access to a document where disclosure of that document would undermine the protection of privacy and the integrity of the individual, in accordance in particular with EU legislation regarding the protection of personal data.

- 23 According to the case-law, it follows that, where an application is made seeking access to personal data, within the meaning of Article 3(1) of Regulation 2018/1725, the provisions of that regulation become applicable in their entirety (see, to that effect, judgment of 16 July 2015, *ClientEarth and PAN Europe v EFSA*, C-615/13 P, EU:C:2015:489, paragraph 44 and the case-law cited).
- 24 Thus, personal data may be transmitted to a third party on the basis of Regulation No 1049/2001 only where that transmission fulfils the conditions laid down in Article 9(1)(a) or (b) of Regulation 2018/1725 and constitutes lawful processing in accordance with the requirements of Article 5 thereof (see, to that effect, judgment of 2 October 2014, *Strack v Commission*, C-127/13 P, EU:C:2014:2250, paragraph 104).
- 25 In that regard, according to Article 9(1)(b) of Regulation 2018/1725, personal data are to be transmitted to recipients established in the European Union other than EU institutions and bodies only if the recipient establishes that it is necessary to have the data transmitted for a specific purpose in the public interest and if the controller establishes, where there is any reason to assume that the data subject's legitimate interests might be prejudiced by that transmission, that it is proportionate to transmit personal data for that specific purpose after having demonstrably weighed the various competing interests.
- 26 Accordingly, it is apparent from the very wording of Article 9(1)(b) of Regulation 2018/1725 that that provision makes the transmission of personal data subject to the fulfilment of a number of cumulative conditions.
- 27 Under Article 9(1)(b) of Regulation 2018/1725, as interpreted by the EU judiciary, it is first incumbent on the applicant for access to demonstrate the necessity of the transmission of personal data for a specific purpose in the public interest. In order to satisfy that condition, it must be established that the transmission of personal data is the most appropriate of the possible measures for attaining the applicant's objective, and that it is proportionate to that objective, which means that the applicant must submit express and legitimate reasons (see judgment of 19 September 2018, *Chambre de commerce et d'industrie métropolitaine Bretagne-Ouest (port de Brest) v Commission*, T-39/17, not published, EU:T:2018:560, paragraph 42 and the case-law cited). It follows that to apply the condition consisting in demonstrating the necessity of the transmission of personal data for a specific purpose in the public interest is to recognise the existence of an exception to the rule laid down by Article 6(1) of Regulation No 1049/2001, according to which the applicant is not obliged to justify his or her request for access (judgments of 15 July 2015, *Dennekamp v Parliament*, T-115/13, EU:T:2015:497, paragraph 55, and of 6 April 2022, *Saure v Commission*, T-506/21, not published, EU:T:2022:225, paragraph 25).
- 28 Only if it is demonstrated to be necessary is it then for the institution concerned to determine that there is no reason to assume that the transmission at issue might prejudice the legitimate interests of the data subject and, in such a case, to weigh, in a demonstrable manner, the various competing interests with a view to assessing the proportionality of the requested transmission of personal data (see judgment of 16 July 2015, *ClientEarth and PAN Europe v EFSA*, C-615/13 P, EU:C:2015:489, paragraph 47 and the case-law cited).
- 29 It is in the light of those considerations that it is appropriate to examine the applicants' arguments in the context of this first plea.

1. The first part, alleging a misapplication of the requirement of necessity in respect of the transmission of the personal data contained in the documents whose disclosure was requested

- 30 The applicants consider, in essence, that the Parliament erred in finding in the contested decision that the transmission of personal data was not necessary for a specific purpose in the public interest, within the meaning of Article 9(1)(b) of Regulation 2018/1725. First of all, they contest the Parliament's finding that they had failed to identify a specific public interest in disclosure of the requested documents regarding Mr Lagos' expenses.
- 31 In the first place, the applicants submit that the specific public interest in their request arose from the fact that Mr Lagos had been convicted of a specific and very serious criminal offence. Their request was to facilitate enhanced public scrutiny and accountability in relation to the sums paid by the Parliament to Mr Lagos and the expenses incurred by him in exceptional circumstances in which he had been sentenced to 13 years and 8 months' imprisonment and fined for serious crimes. The applicants argue that this is not a general request for enhanced transparency of information concerning Mr Lagos' expenses or those of other Members of the European Parliament generally and that, to that extent, their request may be distinguished from that at issue in the judgment of 25 September 2018, *Psara and Others v Parliament* (T-639/15 to T-666/15 and T-94/16, EU:T:2018:602).
- 32 In the second place, according to the applicants, the fact that certain information (such as the general figures relating to the salaries paid to Members of the European Parliament and the conditions for the reimbursement of those Members' travel expenses) is already in the public domain, a circumstance relied on by the Parliament in the contested decision, does not meet the specific interest of the request for access to documents submitted concerning Mr Lagos' expenses, in the unique circumstances of the case of that Member, which sought access to specific information in the light of the extraordinary circumstances of that Member's serious criminal conviction.
- 33 In the third place, the applicants submit that the Parliament does not explain how the internal and external controls mentioned in the contested decision might operate in circumstances where a Member of the European Parliament has been convicted of serious criminal offences during his or her mandate. They regard those controls as insufficient to identify cases in which public funds are granted to Members of the European Parliament and then used in connection with criminal or other unlawful activities, although the financial assistance provided to Members of the European Parliament is to be used in connection with their official duties. The applicants add that, even though, in their view, the burden of explaining how those controls are sufficient rests with the Parliament, they consider that the disclosure of the documents requested would enable a more thorough examination of whether the controls in question are adequate in situations such as that in the present case.
- 34 In the fourth place, the applicants submit that the fact that Mr Lagos remained a Member of the European Parliament in spite of his criminal conviction does not preclude the legitimate public interest in favour of granting access to the documents requested. They consider that disclosure of those documents would allow for enhanced transparency and a better understanding of how the funds were allocated to Mr Lagos and used by him in the period following his conviction and leading up to the final decision to remove his parliamentary immunity on 27 April 2021. The applicants take the view that the question of whether it was appropriate for Mr Lagos to continue to receive public funds must be the subject of public discussion, with knowledge of precisely what funds were received and for what purpose.

35 The Parliament contests those arguments.

36 As a preliminary point, in so far as the applicants accept that the documents whose disclosure they are seeking contain personal data, it is necessary to verify beforehand whether, in the light of the case-law cited in paragraph 27 above, the applicants have fulfilled the obligation, laid down in Article 9(1)(b) of Regulation 2018/1725, to demonstrate the necessity of the transmission of those data for a specific purpose in the public interest.

37 In that regard, it is necessary to examine, in the first place, whether the purpose invoked by the applicants for the transmission of the personal data at issue must be regarded as a specific purpose in the public interest and, in the second place, whether the requested transmission is necessary, as regards, on the one hand, Mr Lagos and, on the other hand, his parliamentary assistants.

(a) The existence of a specific purpose in the public interest

38 It should be noted at the outset that the documents covered by the request for access relate to Mr Lagos' salary, his subsistence allowance, his general expenses allowance, the reimbursement of his travel expenses, the salaries of his accredited and his local parliamentary assistants and the reimbursement of their travel expenses.

39 Furthermore, it should also be noted that, as follows from the Statute for Members of the European Parliament (Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ 2005 L 262, p. 1), 'the Statute for Members') and Decision 2009/C 159/01 of the Bureau of the Parliament of 19 May and 9 July 2008 concerning implementing measures for the Statute for Members of the European Parliament (OJ 2009 C 159, p. 1), Members are entitled to the following allowances and reimbursements:

- the allowance provided for in Article 10 of the Statute for Members, amounting to 38.5% of the basic salary of a judge at the Court of Justice of the European Union; Article 1 of Decision 2009/C 159/01 provides that Members are entitled to that allowance from the date on which they take up their duties until the last day of the month in which those duties cease;
- the reimbursement, under Article 20(1) of the Statute for Members, of expenses incurred in the exercise of their mandate; paragraph 2 of that provision lays down that Parliament is to reimburse the actual expenses incurred by Members in travelling to and from the places of work and in connection with other duty travel, while, under paragraph 3 of the same article, other expenses incurred by Members in the exercise of their mandate may be reimbursed by means of a flat-rate sum; in this connection:
 - Article 11 of Decision 2009/C 159/01 states that travel expenses are to be reimbursed on the basis of the attestation of attendance and on presentation of the relevant travel documents, and, where appropriate, other supporting documents;
 - Article 24 of Decision 2009/C 159/01 provides for a subsistence allowance to be paid for each day's attendance, on the one hand, in a place of work or at a meeting venue and, on the other, at a meeting of a committee or another body of a national parliament, held away from

the Member's place of residence; in both these cases, the Member's presence at the place in question must be duly attested; if the official activity takes place on the territory of the European Union, Members are to receive a lump-sum allowance;

- the general expenses allowance in the form of a flat-rate sum, in accordance with Articles 25 and 28 of Decision 2009/C 159/01; that allowance is intended to cover expenses arising in the course of their parliamentary activities, in particular office management and running costs, office supplies and documents, office equipment costs, representation activities and administrative costs;
 - the reimbursement, in accordance with Article 21 of the Statute for Members, of expenses actually incurred by Members in employing their personal assistants; Article 33 of Decision 2009/C 159/01 provides that only expenses for assistance which is necessary and directly linked to the exercise of a Member's parliamentary mandate may be defrayed, as expenses linked to a Member's private life may on no account be defrayed.
- 40 In that regard, it should be pointed out that the necessity of the transmission of personal data may be based on a general objective, such as the public's right to information concerning the conduct of Members of the European Parliament in the exercise of their duties, without prejudice to the fact that only demonstration by the applicants of the appropriateness and proportionality to the objectives pursued by the request for disclosure of the personal data would allow the Court to verify the necessity of that disclosure within the meaning of Article 9(1)(b) of Regulation 2018/1725 (see, to that effect, judgment of 25 September 2018, *Psara and Others v Parliament*, T-639/15 to T-666/15 and T-94/16, EU:T:2018:602, paragraph 92 and the case-law cited).
- 41 As mentioned in paragraphs 31 to 34 above and as confirmed by the parties at the hearing, the purpose invoked by the applicants for the transmission of the documents at issue was, in essence, to ascertain the actual amounts of the sums allocated by the Parliament to Mr Lagos during the relevant period and the manner in which those sums had been used, with a view to facilitating enhanced public scrutiny and accountability in relation to Mr Lagos' particular circumstances. The applicants considered that that purpose would contribute to transparency as to how taxpayers' money was spent and would, in particular, enable citizens to understand whether those allowances had contributed, directly or indirectly, to financing or perpetuating a criminal or unlawful activity carried out by Mr Lagos or to enabling him to evade compliance with a judicial decision of a Member State of the European Union.
- 42 Apart from the fact that, as pointed out in paragraph 40 above, the necessity of the transmission of personal data may be based on a general objective, in the present case, contrary to the Parliament's assertion, it is not a general purpose but a purpose specifically linked to the particular circumstances of the case in question, as provided for in Article 9(1)(b) of Regulation 2018/1725, namely to ascertain the actual amounts of the sums allocated by the Parliament to Mr Lagos during the relevant period and the way in which the allowances paid by the Parliament to Mr Lagos were used, in the context of the exercise of his mandate as a Member of Parliament.
- 43 It should be pointed out that the facts giving rise to the present case are of a highly exceptional nature, in that they concern a Member of Parliament who has been sentenced to 13 years and 8 months' imprisonment, who is in prison and who has also been ordered to pay a fine for having inter alia committed serious crimes, namely membership and leadership of a criminal organisation. Despite that conviction and even after his arrest and imprisonment, Mr Lagos remained a Member of Parliament and therefore continued to receive allowances corresponding

to the exercise of those duties. In particular, in such a context, the fact that the applicants may seek to ascertain for what purpose and to which places Mr Lagos made journeys during the relevant period which were reimbursed by the Parliament must be regarded as legitimate.

44 Accordingly, in the particular circumstances of the present case, the purpose of ascertaining the actual amounts of the sums allocated by the Parliament to Mr Lagos during the relevant period and the manner in which those sums were used, with a view to facilitating enhanced public scrutiny and accountability in relation to Mr Lagos' access to public funds and, therefore, contributing to transparency as to how taxpayers' money is spent, must be considered to be a specific purpose in the public interest within the meaning of Article 9(1)(b) of Regulation 2018/1725. The Parliament was therefore wrong to refuse, in the contested decision, to recognise such a purpose as being a specific purpose in the public interest.

(b) The necessity of the transmission of personal data

45 In the light of the case-law cited in paragraph 27 above, it is also appropriate to analyse whether the necessity of the transmission of personal data has been demonstrated by the applicants. It must therefore be ascertained whether, on the one hand, the transmission of the data requested was the most appropriate measure, among the other possible measures, to achieve the specific purpose in the public interest pursued by the applicants and, on the other hand, whether it was proportionate to that purpose.

46 In that regard, it must first be examined whether the applicants have succeeded in demonstrating the necessity of the transmission of personal data concerning Mr Lagos contained in the documents at issue. The necessity of the transmission of the personal data concerning Mr Lagos' accredited and local assistants contained in the documents at issue will be examined in paragraphs 66 to 79 below.

(1) The necessity of the transmission of the personal data at issue in relation to Mr Lagos

47 The Parliament considers, in essence, that information on the financial and social entitlements of Members is already in the public domain and that the information thus available constitutes a more appropriate measure for achieving the purpose pursued than the transmission of the personal data concerning Mr Lagos. Moreover, the Parliament considers that the internal and external controls concerning the financial and social entitlements of its Members and the expenditure occasioned by those entitlements are more appropriate for monitoring the legality and proper use of the sums paid by the Parliament to Mr Lagos than the public disclosure of the personal data concerning him.

(i) The argument that information on Members' financial and social entitlements is already in the public domain

48 As regards the argument that information on Members' financial and social entitlements is already in the public domain, in the first place, it should be recalled that, according to the case-law, the right of public access enshrined in Regulation No 1049/2001 concerns only those institution documents which the institutions effectively hold, in that that right cannot extend to documents which are not in the possession of the institutions or which do not exist (see judgment of 25 September 2018, *Psara and Others v Parliament*, T-639/15 to T-666/15 and T-94/16, EU:T:2018:602, paragraph 27 and the case-law cited).

- 49 It follows from Articles 25 and 26 of Decision 2009/C 159/01 that Members of Parliament receive a lump-sum general expenditure allowance on a monthly basis, following a single application submitted at the beginning of their term of office.
- 50 Having regard to the lump-sum nature of the general expenditure allowance, the Parliament has no document detailing, physically or in time, the use by its members of that allowance, as it confirmed at the hearing.
- 51 In the second place, it should be noted that the allowance provided for in Article 10 of the Statute for Members, which constitutes the monthly salary of Members, is also paid automatically. The Parliament therefore has no records of how its Members use that allowance.
- 52 In the third place, it should be observed that the information contained in the documents held by the Parliament concerning the general expenditure allowance and the allowance provided for in Article 10 of the Statute for Members is freely accessible to the public, being available on the Parliament's website, as the Parliament pointed out in the contested decision (see footnote 19 of the contested decision) and confirmed at the hearing.
- 53 On the Parliament's website, it is possible to find detailed and precise information on the monthly sum received by all Members, after deduction of European tax and social security contributions, by way of the allowance provided for in Article 10 of the Statute, that is to say an identical remuneration that all Members receive. It is also possible to find the exact lump-sum amount of the general expenditure allowance granted to Members. That information therefore enabled the applicants to obtain the necessary and appropriate information on the exact sums paid monthly to Mr Lagos in this respect.
- 54 It follows that, as regards the allowance provided for in Article 10 of the Statute for Members and the general expenditure allowance, disclosure of the personal data at issue cannot be regarded as the most appropriate measure for attaining the purpose pursued by the applicants, since they had the possibility of obtaining those data by accessing the Parliament's website.
- 55 Accordingly, in the light of the case-law cited in paragraph 27 above, the applicants have failed to demonstrate the necessity of such a transmission.
- 56 The situation is different with regard to the reimbursement of travel expenses and the payment of the subsistence allowance to Members, in so far as the information publicly available in this respect, on the Parliament's website, relates solely to the rules in force for receiving such an allowance and the conditions applicable to the reimbursement of travel expenses. However, those expenses and allowances are paid only if Members submit a request for that purpose to the Parliament's services, possibly accompanied by supporting documents.
- 57 It follows that the publicly available information on travel expenses and the subsistence allowance does not make it possible to ascertain the amounts of the sums which were paid by the Parliament to Mr Lagos in the exercise of his mandate as a Member of Parliament during the relevant period. The reimbursement of those sums depended on the requests made by Mr Lagos to that end.

58 Moreover, the publicly available information on travel expenses and the subsistence allowance does not make it possible to determine the purpose of the travel, the destination or the route taken by Mr Lagos. However, as the applicants have argued, the transmission of the personal data at issue, as regards the travel expenses and the subsistence allowance, would enable the public to have access to that information.

59 Access to those documents may be of interest to the applicants, in so far as they make it possible to ascertain Mr Lagos' activities during the relevant period, given that he had been convicted at the time but was not yet imprisoned, and thus to give indications as to the possible use of public funds for any unlawful activities which might have been pursued by Mr Lagos during his travels, even if those documents did not contain precise indications as to how the Member had spent the sums allocated.

60 It follows that, in the particular circumstances of the present case, disclosure of the personal data at issue concerning the supporting documents for Mr Lagos' travel expenses and subsistence allowance is a more appropriate measure for attaining the purpose pursued by the applicants than access to information which is already in the public domain.

(ii) The argument that the Parliament's existing internal and external controls would be more appropriate for monitoring the legality and proper use of the sums paid by the Parliament to Mr Lagos than the public disclosure of personal data

61 As regards the argument that the Parliament's existing internal and external controls would be more appropriate for monitoring the legality and proper use of the sums paid by the Parliament to Mr Lagos, it should be noted that the controls at issue are essentially intended to assess whether the payments made comply with the rules in force.

62 Irrespective of the question whether those rules were complied with, the interest relied on by the applicants is to enable the public to become aware of the actual amounts of the sums allocated by the Parliament to Mr Lagos during the relevant period and of the manner in which those sums were used, with a view to facilitating enhanced public scrutiny and accountability in relation to Mr Lagos' particular circumstances.

63 Those internal and external controls do not make it possible to achieve the specific purpose in the public interest relied on by the applicants to justify the transmission of the documents requested. Contrary to what the Parliament maintains, those controls cannot therefore be regarded as being more appropriate than the transmission of the personal data concerning Mr Lagos.

64 Therefore, in the particular circumstances of the present case, it must be considered that the transmission of the personal data contained in the documents relating to the reimbursement of travel expenses and the subsistence allowance received by Mr Lagos constitutes, in the light of the case-law cited in paragraph 27 above, a necessary measure to achieve the specific purpose in the public interest relied on by the applicants in order to justify the transmission of the personal data at issue.

65 It follows from all the foregoing that the Parliament wrongly considered that, as regards the documents relating to the reimbursement of travel expenses and the subsistence allowance received by Mr Lagos, the applicants had not fulfilled the obligation, laid down in Article 9(1)(b) of Regulation 2018/1725, to demonstrate the necessity of the transmission of personal data for a specific purpose in the public interest.

(2) The necessity of the transmission of the personal data at issue in relation to Mr Lagos' accredited and local assistants

- 66 The Parliament maintains that Mr Lagos' accredited and local parliamentary assistants do not perform public duties. Accordingly, in the contested decision, the Parliament in the alternative ruled out, in the context of the balancing of the various competing interests, the proportionality of the requested transmission of personal data concerning those parliamentary assistants.
- 67 Article 21(1) of the Statute for Members provides that Members' personal staff are freely chosen by them.
- 68 According to Article 21(2) of the Statute for Members, the Parliament is to meet the expenses actually incurred in employing Members' personal staff, while Article 21(3) of the Statute specifies that the Parliament is to lay down the conditions for the exercise of that right.
- 69 The conditions relating to the defrayal of parliamentary assistance expenses are then defined by implementing measures. In particular, Article 33 of Decision 2009/C 159/01 sets a limit on the monthly amount of expenses that may be defrayed in this respect by the Parliament. The mechanism for defraying the costs of parliamentary assistance is triggered by the Member submitting his or her request for defrayal to the administration, accompanied by the contract concluded with the assistant, setting out the assistant's duties.
- 70 It follows that those parliamentary assistance costs are linked to the exercise of a Member's mandate, even if they are defrayed directly by the Parliament.
- 71 In that regard, it should be emphasised that, as pointed out in paragraph 41 above, by transmitting the documents at issue, the applicants sought to obtain information enabling them to understand whether the sums allocated to Mr Lagos, including those relating to his parliamentary assistance expenses, had contributed, directly or indirectly, to the financing or perpetuation of a criminal or unlawful activity carried out by him. As the applicants submit in paragraph 66 of the application, access to documents containing information on Mr Lagos' assistants was requested solely in order to obtain information on the role played by Mr Lagos.
- 72 As far as the salaries of the parliamentary assistants are concerned, they are paid regardless of their actual activities in providing parliamentary assistance to Mr Lagos. Accordingly, the transmission of documents concerning the payment of those salaries cannot provide the applicants with information about any direct or indirect contribution to the financing or perpetuation of a criminal or unlawful activity by Mr Lagos.
- 73 Therefore, in the light of the case-law cited in paragraph 27 above, the applicants have failed to demonstrate the necessity of such a transmission.
- 74 On the other hand, in so far as the expenses relating to the travel of Mr Lagos' parliamentary assistants are closely linked to his activities and even though those assistants do not hold public office, it cannot be ruled out that those expenses may give indications of a possible connection, even if only indirect, with unlawful activities carried out by Mr Lagos. Those travels are made at the request of the Member and may provide information about their purpose and location, as well as the route taken, which could be associated with possible unlawful activities by Mr Lagos.

- 75 Such a transmission therefore constitutes an appropriate measure for achieving the purpose relied on by the applicants in order to justify the transmission of the personal data at issue.
- 76 Furthermore, it should be noted that the Parliament did not contend that information concerning the amounts of the sums paid to parliamentary assistants by way of reimbursement of travel expenses is publicly available. It follows that, as regards the documents relating to the reimbursement of Mr Lagos' assistants' travel expenses, the transmission requested is the most appropriate means of achieving the purpose relied on by the applicants.
- 77 In this regard, it should also be borne in mind that the Parliament's existing internal and external controls do not make it possible to achieve the specific purpose in the public interest relied on by the applicants in order to justify the transmission of the documents requested (see paragraph 63 above), including the documents concerning the travel expenses of Mr Lagos' parliamentary assistants. As was concluded in paragraph 63 above with regard to Mr Lagos, those controls cannot therefore be regarded as being more appropriate than the transmission of personal data concerning the latter's parliamentary assistants.
- 78 Therefore, in the particular circumstances of the present case, the transmission of the personal data contained in the documents relating to the reimbursement of the travel expenses of Mr Lagos' parliamentary assistants constitutes, in the light of the case-law cited in paragraph 27 above, a necessary measure to achieve the purpose relied on by the applicants in order to justify the transmission of the personal data at issue.
- 79 It follows from all the foregoing that the Parliament wrongly considered that, as regards the documents relating to the reimbursement of travel expenses received by Mr Lagos' assistants, the applicants had not fulfilled the obligation, laid down in Article 9(1)(b) of Regulation 2018/1725, to demonstrate the necessity of the transmission of personal data for a specific purpose in the public interest.

2. The second part, alleging that there was no disproportionate prejudice to the legitimate interests of the data subject by the transmission requested

- 80 By the second part of the first plea, the applicants consider, in essence, that the Parliament erred in finding – after weighing, in the alternative, the various competing interests, within the meaning of Article 9(1)(b) of Regulation 2018/1725 – that it was disproportionate, having regard to the legitimate interests of Mr Lagos and of his assistants, to transmit the personal data at issue.
- 81 The Parliament disputes the applicants' arguments.
- 82 In the first place, the Parliament submits that those arguments are ineffective. It takes the view that, since the requirements for the transmission of personal data under Article 9(1)(b) of Regulation 2018/1725 are of a cumulative nature, the exception relating to the protection of privacy and the integrity of the individual, provided for in Article 4(1)(b) of Regulation No 1049/2001, should apply where, as in the present case, the recipient fails to establish that the transmission of the requested personal data is necessary in view of a specific purpose in the public interest. Accordingly, in the Parliament's opinion, any possible error in the subsidiary findings concerning the legitimate interests of Mr Lagos and of his assistants and the disproportionate nature of the transmission cannot have an impact on the contested decision.

- 83 In the second place, the Parliament is of the view that, in any event, the applicants' arguments are unfounded.
- 84 In essence, the Parliament considers that, in the contested decision, it identified the legitimate interests of the data subjects likely to be harmed by the public disclosure of their personal data. As far as Mr Lagos is concerned, these include, on the one hand, the free exercise of the mandate of a Member of Parliament, which encompasses inter alia the freedom to meet with persons of one's choice, the freedom to participate in meetings, conferences and official business, the fact of being kept informed with a view to debates and votes in the Parliament, and the right to seek assistance, choose the members of one's staff, determine their salaries freely within certain limits and send them on missions. The Parliament considers that the public disclosure of the personal data relating to the exercise of Mr Lagos' mandate, including his place of residence, would make it possible to trace and profile the Member of Parliament and his assistants, thereby undermining the free exercise of his mandate.
- 85 On the other hand, according to the Parliament, in so far as it relates to a recurrent activity of a Member, the disclosure of the personal data at issue could also constitute a risk to Mr Lagos' security.
- 86 As regards Mr Lagos' assistants, the Parliament considered that they did not perform public duties and that they therefore had a legitimate interest in the protection of the personal data concerning them.
- 87 In that regard, it should be noted that, in respect of Article 8(b) of Regulation No 45/2001, according to the case-law, once the necessity of the transmission of personal data is established, the institution or body of the European Union in receipt of a request for access to documents containing such data must weigh the various interests of the parties concerned and verify whether there is any reason to assume that the data subjects' legitimate interests may be prejudiced by that transmission (see judgment of 15 July 2015, *Dennekamp v Parliament*, T-115/13, EU:T:2015:497, paragraph 116 and the case-law cited). That case-law is applicable by analogy to the present case, even though Article 8(b) of Regulation No 45/2001 has in the meantime been replaced by Article 9(1)(b) of Regulation 2018/1725. The latter provision, the content of which is recalled in paragraph 25 above, also provides for the weighing, in a demonstrable manner, of the various competing interests in the context of the examination of the request for the transmission of personal data.
- 88 In the present case, therefore, it is necessary to assess whether the Parliament ascertained whether there was any reason to assume that the transmission at issue might prejudice the legitimate interests of Mr Lagos and of his assistants and, in such a case, whether that institution demonstrably weighed the various competing interests with a view to assessing the proportionality of the transmission of personal data at issue.
- 89 It is therefore necessary to examine whether the Parliament rightly considered that it would not be proportionate, within the meaning of Article 9(1)(b) of Regulation 2018/1725, read in the light of paragraph 3 of that article, to transmit the personal data contained in the documents at issue, since the legitimate interests of Mr Lagos and of his assistants prevailed over the interests mentioned by the applicants.

- 90 In that regard, as regards the first argument raised by the Parliament in relation to Mr Lagos, namely the interest in protecting the free exercise of a Member's mandate, it should be recalled that, under Article 2(1) of the Statute for Members, Members are to be free and independent. That fundamental guarantee attached to the mandate of the Members, representatives elected by universal suffrage by the citizens of the Union, was rightly taken into account by the Parliament in the weighing of interests it had to carry out. However, in the present case, as is clear from paragraphs 56 to 60 above, the request for access to the documents at issue should be examined, in this part, only in so far as it concerns information relating to the reimbursement of travel expenses and subsistence allowances received by Mr Lagos. In that regard, it should be noted that public knowledge of such travel is not such as to restrict, in any way whatsoever, the free exercise of Mr Lagos' mandate, in particular as regards the journeys covered by the request for access in the present case, which all took place in the past. Disclosure of the places to which Mr Lagos travelled during the relevant period is not such as to affect the conditions under which he exercised his mandate as a Member of Parliament during that period. Furthermore, as regards Mr Lagos' journeys in connection with public events, such as his participation in meetings or public ceremonies, the disclosure of documents relating to the reimbursement of travel expenses and subsistence allowances received by Mr Lagos for such activities cannot be considered to be disproportionate. Moreover, it has not been demonstrated how the disclosure of information about the journeys made was likely to affect the free exercise of the mandate of Member of the European Parliament. The Parliament's argument must therefore be rejected.
- 91 As for the second argument put forward by the Parliament with regard to Mr Lagos, namely the interest in ensuring his security, in the case of documents relating to subsistence allowances and reimbursements of travel expenses received in the past, the security of the Member in question can in principle no longer be regarded as being jeopardised by the transmission of the personal data at issue, in so far as it concerns travels which had already taken place at the time when the applicants' request was made. It is true that disclosing to the public the places of Mr Lagos' recurrent travels, in particular to a private home in Greece, could be prejudicial to his security, particularly if his personal address appeared in the documents to which access would be granted. Nevertheless, it is for the Parliament, when weighing the interests, to give access to the information necessary for the public interest purpose pursued, while at the same time ensuring the protection of the personal data essential to Mr Lagos' security. Furthermore, as regards the question whether Mr Lagos' security might be at risk during future journeys in the exercise of his mandate as a Member of Parliament, it is sufficient to point out that, as Mr Lagos is imprisoned, he could not, at the date of adoption of the contested decision, nor can he, at the date of delivery of the present judgment, travel. Consequently, the question of his security during such hypothetical trips does not arise. Given the particular circumstances of the present case, that argument, which is not sufficiently substantiated by the Parliament, must therefore also be rejected.
- 92 It should also be recalled that Mr Lagos was sentenced to a long prison term for the serious crime of belonging to and leading a criminal organisation. Furthermore, as was noted in the context of the analysis of the first part of this first plea, the purpose relied on by the applicants in order to establish the necessity of the transmission of the documents at issue is to ascertain the actual amounts of the sums allocated by the Parliament to Mr Lagos, relating to subsistence allowances and reimbursement of travel expenses during the relevant period, and the way in which those sums were used by Mr Lagos, with a view to facilitating enhanced public scrutiny and accountability, in particular having regard to the fact that the Parliament continued to pay sums to Mr Lagos despite his conviction. As noted in paragraph 59 above, the journeys at issue took place

during a period when Mr Lagos had already been convicted of serious crimes and it was therefore legitimate for the applicants to be able to obtain information about the purpose and destinations of those journeys.

- 93 Consequently, the risks of a possible prejudice to the free exercise of Mr Lagos' mandate as a Member of Parliament and to his security are not sufficient to justify a refusal to disclose the personal data at issue, having regard to the legitimate interest of the applicants in obtaining such disclosure, in the particular circumstances of the present case.
- 94 In addition, as regards the argument put forward by the Parliament concerning Mr Lagos' assistants, to the effect that they have a legitimate interest in the protection of their personal data because they do not perform public duties (see paragraph 86 above), it should be noted that, as is clear from paragraphs 74 to 78 above, while it is true that those parliamentary assistants do not hold public office, it cannot be ruled out that the transmission of personal data contained in documents relating to the travel expenses of those assistants may give indications of a possible connection, even if only indirect, with criminal or unlawful activities carried out by Mr Lagos.
- 95 That argument of the Parliament must therefore be rejected.
- 96 Accordingly, it must be held that the Parliament wrongly took the view that the transmission of personal data would prejudice the legitimate interests of Mr Lagos and of his assistants and that, having weighed the various competing interests, such a transmission would not be proportionate.
- 97 It follows from all the foregoing that the first plea, alleging infringement of the combined provisions of Article 4(1)(b) of Regulation No 1049/2001 and Article 9(1)(b) of Regulation 2018/1725, must be upheld in so far as it concerns the refusal of access to documents containing, on the one hand, personal data concerning Mr Lagos, relating to reimbursements of travel expenses and subsistence allowances paid to him by the Parliament, and, on the other hand, personal data concerning Mr Lagos' parliamentary assistants, relating to reimbursements of their travel expenses, and dismissed as to the remainder.

B. The second plea, raised in the alternative, alleging infringement of Article 4(6) of Regulation No 1049/2001

- 98 According to the applicants, in the contested decision, the Parliament disregarded the fact that Article 4(6) of that regulation required at least partial release of all the documents at issue in their request.
- 99 In the first place, the applicants submit that it is incorrect to state, as the Parliament did in the contested decision, that the removal of the personal data contained in the documents at issue would deprive them of any useful effect. The applicants contend that, unlike the circumstances which gave rise to the judgment of 25 September 2018, *Psara and Others v Parliament* (T-639/15 to T-666/15 and T-94/16, EU:T:2018:602), which concerned a request for information relating to the expenditure of a group of Members of Parliament, their request related to a single Member of Parliament and, consequently, the removal of the personal data would not have deprived access to those documents of useful effect.
- 100 In the second place, the applicants take the view that the Parliament erroneously asserted, in the contested decision, that access to the documents at issue would not ensure adequate protection of the privacy and the integrity of the individual, since the subject matter of the request links any

document mentioned to Mr Lagos. The applicants consider that removing the personal data relating to Mr Lagos and his assistants would adequately ensure their privacy while serving the specific interest of disclosure.

- 101 The Parliament contests those arguments. It also submits that the applicants' arguments are belated, since they were submitted for the first time at the reply stage, and are therefore inadmissible.
- 102 In that regard, in the first place, it should be recalled that, as concluded in paragraph 97 above, the first plea was upheld in part as regards the refusal of access to the documents containing, on the one hand, personal data concerning Mr Lagos relating to the reimbursement of travel expenses and subsistence allowances paid to him by the Parliament and, on the other hand, personal data concerning Mr Lagos' parliamentary assistants relating to the reimbursement of their travel expenses. Consequently, there is no need to examine the second plea in that regard, which concerns only a possible partial release, under Article 4(6) of Regulation No 1049/2001, of such documents.
- 103 In the second place, as concluded in paragraph 97 above, the first plea was rejected in so far as it related to the refusal of access, on the one hand, to documents concerning the amounts received by Mr Lagos in respect of the allowance provided for in Article 10 of the Statute for Members and the general expenditure allowance and, on the other, to documents concerning the salaries of Mr Lagos' accredited and local assistants. It is therefore appropriate to examine whether, under Article 4(6) of Regulation No 1049/2001, the Parliament should have given partial access to those documents, expunged of all personal data.
- 104 In that regard, it should be recalled that, in the contested decision, the Parliament argued, first, that the concealment of personal data in the documents at issue would not ensure adequate protection of the privacy and the integrity of the individual, since the subject matter of the request linked any document mentioned to Mr Lagos and his assistants. Secondly, the Parliament considered that the disclosure of a version of the documents requested that was expunged of all personal data would deprive access to those documents of any useful effect in the light of the purpose pursued by the applicants in their request for access.
- 105 As regards the documents relating to the amounts of the sums received by Mr Lagos by way of the allowance provided for in Article 10 of the Statute for Members and the general expenditure allowance, as concluded in the paragraph 55 above, the applicants have not succeeded in demonstrating the necessity of such a transmission, inasmuch as they had the possibility of obtaining the data they were seeking by accessing the Parliament's website.
- 106 As those documents were not necessary to pursue the purpose relied on by the applicants in support of their request for access to the documents, the transmission of such documents, expunged of all personal data, would have no useful effect with regard to the purpose pursued by the applicants in their request for access. Such partial access would not have enabled the applicants to obtain any more information than that which they could find on the Parliament's website (see, to that effect, judgment of 25 September 2018, *Psara and Others v Parliament*, T-639/15 to T-666/15 and T-94/16, EU:T:2018:602, paragraph 126).
- 107 Moreover, as regards the documents relating to the salaries of Mr Lagos' accredited and local assistants, it should be borne in mind that, as noted in paragraph 72 above, the transmission of the personal data contained in those documents cannot provide the applicants with information

about any direct or indirect contribution of the sums in question to the financing or perpetuation of any criminal or unlawful activity carried out by Mr Lagos. It was thus concluded, in paragraph 73 above, that the applicants had failed to demonstrate the necessity of such a transmission.

- 108 It follows that, a fortiori, the transmission of such documents expunged of any personal data would not have enabled the applicants to obtain information in the light of that purpose pursued by their request for access. Such a transmission would therefore have no useful effect with regard to the purpose pursued by the applicants.
- 109 It follows that the Parliament was not obliged to grant partial access to the documents referred to in paragraph 103 above.
- 110 The second plea of the action must therefore be dismissed as unfounded, without it being necessary to rule on the other arguments put forward in that regard by the Parliament or on the admissibility, contested by the Parliament, of certain arguments put forward by the applicants.
- 111 The errors of assessment found in paragraphs 65, 78 and 96 above, regarding access to the documents containing personal data relating to Mr Lagos, concerning reimbursements of travel expenses and subsistence allowances paid to him by the Parliament, and to the documents containing personal data relating to Mr Lagos' parliamentary assistants, concerning reimbursements of travel expenses received by them, are sufficient to justify annulment of the contested decision.
- 112 It follows that the contested decision must be annulled in so far as the Parliament refused access to the documents, containing personal data concerning Mr Lagos, relating to reimbursements of travel expenses and subsistence allowances paid to him by the Parliament and to the documents, containing personal data concerning Mr Lagos' parliamentary assistants, relating to reimbursements of travel expenses received by them. The action must be dismissed as to the remainder.

IV. Costs

- 113 Under Article 134(3) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.
- 114 Since the Parliament has been essentially unsuccessful, it must be ordered to pay the costs, in accordance with the form of order sought by the applicants.

On those grounds,

THE GENERAL COURT (Fourth Chamber, Extended Composition)

hereby:

- 1. Annuls the decision of the European Parliament bearing reference A(2021)10718C of 8 April 2022, in so far as it refuses to grant Ms Luisa Izuzquiza, Mr Arne Semsrott and Mr Stefan Wehrmeyer access, on the one hand, to the documents relating to reimbursements of travel expenses and subsistence allowances paid by the Parliament to**

Mr Ioannis Lagos and containing personal data concerning him and, on the other hand, to the documents relating to reimbursements of travel expenses paid to Mr Lagos' parliamentary assistants by the Parliament and containing personal data concerning those assistants;

2. Dismisses the action as to the remainder;

3. Orders the Parliament to pay the costs.

Van der Woude

da Silva Passos

Gervasoni

Póltorak

Pynnä

Delivered in open court in Luxembourg on 8 May 2024.

V. Di Bucci

Registrar

S. Papasavvas

President